IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.2773 OF 2004

Union of India & Anr. ...Petitioners.

Vs.

Nirmala B.Raut. ...Respondent.

.....

Mr.Suresh Kumar for the Petitioners.

Mrs.Nilima Dutta for the Respondent.

.....

CORAM : DR.D.Y.CHANDRACHUD, J.

March 21, 2005.

P.C. :

The husband of the Respondent, B.G.Raut, was a postman attached to the Jecob Circle Post Office, Mumbai-400 011. He died while he was in service. The Respondent applied for compassionate appointment on 1st December 1998 and on 6th January 2000, she was informed by the Officer on Special Duty, Maharashtra Circle, Mumbai-400 001, that the Chief Postmaster General had approved her employment as a Group-D employee in the Mumbai

Sorting Division on compassionate grounds in relaxation of normal rules of recruitment as a special case. The Respondent was informed that her name was kept on the waiting list of candidates approved for appointment on compassionate grounds and that an appointment would be given to her as soon as a vacancy became available in accordance with her turn in the waiting list. Counsel appearing on behalf of the Respondent has stated that the Respondent has five daughters.

The Award of the Industrial Tribunal is dated 14th November 2003. This petition was filed on 12th October 2004. The Industrial Tribunal has noted that the Respondent was appointed as a water woman by the Department of Posts and Telegraph and she worked for more than 240 days between 10th May 2000 and 28th August 2001. Her services were simply dispensed with without compliance with the provisions of Section 25F of the Industrial Disputes Act, 1947. In the circumstances, the order of the Industrial Tribunal directing reinstatement with backwages cannot be faulted. The Industrial Tribunal has noted that it was not the case of the Department that the workman was appointed for a particular period or that the work had come to an end by virtue of the fact that it

was temporary. No such case was established before the Industrial Tribunal. However, the mere completion of a period of 240 days, it is well settled, isnot sufficient in itself for a worker to attain the status of a permanent employee. The impugned order of the Industrial Tribunal, therefore, cannot be read to mean that the Respondent is entitled to regularisation in service. The Respondent upon reinstatement shall stand reinstated in the same capacity in which she was employed by the Department.

The case of the Respondent for regular appointment shall be considered in accordance with the applicable rules and regulations as and when a vacancy arises in accordance with her turn in the waiting list. The backwages shall be paid to the Respondent within a period of 8 weeks from today.

The Petition is accordingly dismissed.

.....